

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FRANK M. PECK,

Plaintiff

v.

MICHAEL MINEV, *et al.*,

Defendants.

Case No. 2:21-cv-01865-APG-EJY

ORDER

I. DISCUSSION

On October 8, 2021, Plaintiff, an inmate in the custody of the Nevada Department of Corrections (“NDOC”), submitted a civil rights complaint under 42 U.S.C. § 1983. ECF No. 1-1. Plaintiff has neither paid the full \$402 filing fee for this matter nor filed an application to proceed *in forma pauperis*.

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to commence a civil action may apply to proceed *in forma pauperis*, which allows the inmate to file the civil action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

- (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, on this Court’s approved form (i.e. pages 1 through 3 with the inmate’s two signatures on page 3),
- (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court’s approved form), and
- (3) a copy of the **inmate’s prison or jail trust fund account statement for the previous six-month period**.

The Court grants Plaintiff a **one-time** extension to file a fully complete application to proceed *in forma pauperis* containing all three of the required documents, or in the alternative, pay the full \$402 filing fee for this action on or before **December 13, 2021**. Absent unusual circumstances, the Court will not grant any further extensions of time.

1 If Plaintiff is unable to file a fully complete application to proceed *in forma pauperis* with all
 2 three required documents or pay the full \$402 filing fee on or before **December 13, 2021**, the Court
 3 will recommend dismissal of this case without prejudice allowing Plaintiff to file a new case with
 4 the Court when Plaintiff is able to acquire all three of the documents needed to file a fully complete
 5 application to proceed *in forma pauperis* or pays the full \$402 filing fee.

6 A dismissal without prejudice means Plaintiff does not give up the right to refile the case
 7 with the Court, under a new case number, when Plaintiff has all three documents needed to submit
 8 with an application to proceed *in forma pauperis*. Alternatively, Plaintiff may choose not to file an
 9 application to proceed *in forma pauperis* and instead pay the full filing fee of \$402 on or before
 10 **December 13, 2021** to proceed with this case.

11 The Court will retain Plaintiff's civil rights complaint (ECF No. 1-1), but the Court will not
 12 file the complaint unless and until Plaintiff timely files a fully complete application to proceed *in*
 13 *forma pauperis* with all three documents or pays the full \$402 filing fee.

14 **II. ORDER**

15 Accordingly, and for the foregoing reasons, IT IS HEREBY ORDERED that the Clerk of the
 16 Court shall send Plaintiff the approved form application to proceed *in forma pauperis* by an inmate,
 17 as well as the document entitled information and instructions for filing an *in forma pauperis*
 18 application.

19 IT IS FURTHER ORDERED that on or before **December 13, 2021**, Plaintiff will either pay
 20 the full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52
 21 administrative fee) or file with the Court:

22 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this Court's
 23 approved form (i.e. pages 1 through 3 of the form with the inmate's two signatures on page
 24 3),

25 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official
 26 (i.e. page 4 of this Court's approved form), and
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1 (3) a copy of the **inmate's prison or jail trust fund account statement for the previous**
2 **six-month period.**

3 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete application to
4 proceed *in forma pauperis* with all three documents or pay the full \$402 filing fee for a civil action
5 on or before **December 13, 2021**, the Court will recommend dismissal of this action without
6 prejudice for Plaintiff to refile the case with the Court, under a new case number, when Plaintiff has
7 all three documents needed to file a complete application to proceed *in forma pauperis* or pays the
8 full \$402 filing fee.

9 IT IS FURTHER ORDERED that the Clerk of the Court shall retain Plaintiff's complaint
10 (ECF No.1-1) but will not file it at this time.

11 DATED this 15th day of October, 2021.

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14 ELAYNA J. YOUCHAH
15 UNITED STATES MAGISTRATE JUDGE
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